

III. REMARKS

Claims 1-56 are pending in this application. By this amendment, claims 1 and 21 have been amended and claims 20 and 40-56 have been canceled. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1, 21, 41 and 54-56 are objected to for alleged informalities. Claims 21-40 and 54-56 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 1-15, 19-35 and 39-56 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal *et al.* (U.S. Patent No. 6,606,661), hereafter “Agrawal” in view of Bondarenko *et al.* (U.S. Patent No. 6,389,028), hereafter “Bondarenko,” and further in view of Rumsewicz (U.S. Patent No. 6,832,255), hereafter Rumsewicz. Claims 16-18 and 36-38 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal in view of Bondarenko and Rumsewicz and further in view of Slotznick (U.S. Patent No. 6,011,537), hereafter “Slotznick.”

A. OBJECTION TO CLAIMS 1, 21, 41 AND 54-56

The Office has objected to claims 1, 21, 41 and 54-56 for alleged informalities. In particular, the Office states that the words “desired be” should read “desired to be”. Applicants

respectfully submit that a closer reading of the entire phrase with a pause between the words “desired” and “be” should lead to a conclusion that the phrase is appropriate as written. The Office also states that there needs to be an article at the beginning of claims 21, 41 and 54. Applicants have amended the claims that have not been canceled to include an article. Accordingly, Applicants respectfully request that the object be withdrawn.

B. REJECTION OF CLAIMS 21-40 UNDER 35 U.S.C. §101

The Office has asserted that claims 21-40 are not directed to statutory subject matter. Applicants have amended claim 21 to include processor and a memory. Accordingly, Applicants request that the rejection be withdrawn.

C. REJECTION OF CLAIMS 1-56 UNDER 35 U.S.C. §103(a)

With regard to the 35 U.S.C. §103(a) rejection over Agrawal in view of Bondarenko and Rumsewicz, Applicants assert that the cited references do not teach each and every feature of the claimed invention. For example, with respect to independent claims 1 and 21, Applicants submit that the cited references fail to teach or suggest, *inter alia*, responsive to determining that said access level is currently at a desired maximum, determining whether said scarce resource is able to accommodate immediate access by said late requester. Applicants have attempted to further define what constitutes a late requester in accordance with the Examiner’s suggestions. Accordingly, Applicants respectfully request that the Office withdraw the rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed

above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

IV. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

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/Hunter E. Webb/
Hunter E. Webb
Reg. No.: 54,593

Hoffman Warnick LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)